



## City of Wheatland

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### CITY COUNCIL MEETING

**Date:** July 13, 2010

### STAFF REPORT

**Agenda Item:**

**Subject:** Continuation of the March 9, 2010 public hearing considering the termination of the development agreements between the City and (1) Lakemont Overland Crossing, LLC (Jones Ranch); (2) Wheatland Heritage Oaks, LLC (Heritage Oaks East – Single Family Residential); and (3) Trivest Land Co., Inc (Heritage Oaks East - Commercial/Multi-family).

**Prepared by:** Tim Raney, Community Development Director

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### **Recommendation:**

Staff recommends that the City Council grant an additional 30-day continuation of the public hearing to terminate the development agreements between the City and Lakemont Overland Crossing, LLC (Jones Ranch); (2) Wheatland Heritage Oaks, LLC (Heritage Oaks East – Single Family Residential); and (3) Trivest Land Co., Inc (Heritage Oaks East - Commercial/Multi-family).

### **Discussion:**

At the March 9, 2010 meeting, the Wheatland City Council conducted a public hearing to consider the termination of the development agreements related to the Jones Ranch and Heritage Oaks East projects and voted to continue the hearing to the June 8, 2010 City Council meeting. The Council granted the 90-day extension based on the request of the current property owners in order to allow them to work with city staff to correct the development agreement deficiencies. On June 9, 2010, the City Council granted the property owners an additional 30-day extension and continued the hearing to the July 13, 2010 Council meeting. Staff has continued to meet with the land owners and has

made substantial progress in assisting the developers to resolve the development agreement deficiencies; however, city staff is requesting an additional 30-day extension to complete these negotiations.

The ownership entities for both Jones Ranch and Heritage Oaks East have changed over the past year. Jones Ranch was previously controlled by Lakemont Overland Crossing, LLC; however, the property is now owned by the Royal Bank of Canada. Heritage Oaks East was previously controlled by the Wheatland Heritage Oaks, LLC (which consisted of Woodside Homes and Premier Homes); however, the residential portion of the property has been transferred to a trustee of US Bank. The ownership of the commercial and multi-family residential portion of Heritage Oaks East has been returned to Trivest Land Co.

Staff has provided a status update of each of the development agreements below:

#### Jones Ranch – Royal Bank of Canada

The Jones Ranch property is currently owned by Royal Bank of Canada and the monies owed to the City according to the development agreement have been paid in full. However, the issues related to the joint use agreement between the City of Wheatland and the Wheatland High School District have not been resolved at this time. City and high school district staff have continued to meet with representatives of the bank and are making significant progress toward resolving the issues. Staff is requesting an additional 30-day extension to complete these negotiations.

#### Heritage Oaks East – Trivest Land Co.

Trivest Land Co. owns the commercial and multi-family portion of the Heritage Oaks East project site. Trivest has paid a portion of the monies due to the City as required by the development agreement; however, Trivest has not paid its share of the Main Street traffic signal costs. Staff has continued to work with representatives of Trivest in order to resolve the Main Street funding issues. Staff believes this issue can be resolved within a 30-day extension.

#### Heritage Oaks East – US Bank/Lewis Operating Company

At the June 9, 2010 meeting, Mr. Doug Mull representing the Lewis Operating Company indicated that his company was in negotiations with US Bank to purchase the residential portion of Heritage Oaks East. Mr. Mull indicated that his company was willing to fund the development agreement deficiencies once they were under contract with US Bank. Mr. Mull has stated in a letter dated July 8, 2010 (see Exhibit A) that the bank directors, on July 7<sup>th</sup>, finally agreed to enter into an agreement with Lewis Operating Company. Lewis Operating Company has been obviously and appropriately reluctant to fund the development agreement deficiencies until his company is officially under contract to ultimately own the property. It should also be noted that US Bank is specifically prohibited from providing monies to the City of Wheatland to cure the development

agreement defaults without receiving a court order from the bankruptcy court. Due to the unique difficulties of this situation and the lack of time available to Lewis Operating Company to resolve the development agreement deficiencies, staff is recommending that an additional 30-day extension be granted so that the Lewis Operating Company can execute its purchase agreement with US Bank and initiate its due diligence period.

City staff has continued to be in contact with the new representatives of each of the properties over the past 30-days. Staff believes that substantial progress has been achieved with each of the new ownership entities and good faith efforts have been made in order to correct the deficiencies of the development agreements. However, the final agreements have not been completed at this time and will require an additional 30 days to complete. Therefore, staff is recommending that the Council continue the public hearing to August 10, 2010.

**Alternatives:**

The Council could choose to not continue the public hearing and take action on terminating the development agreements.

**Fiscal Impact:**

Granting an additional 30-day extension will not result in any new fiscal impact.